

App F IX 4

Previous References

✓
1941
(ml)

File No 92-41

Serial Nos 33, 50

Later References

Pol 187-43 (1-4)

GENERAL AND REVENUE SECRETARIAT

Serial Nos

Part B for April 42

SUBJECT

Alleged encroachment of land by
the Kasur Mission ml-el

To

Mr D C Kasur
L 9618/10-4-42

Issues instructions re the -

Done
18-4-42

4484
2
Alleged encroachment of land by the Kadur and

General and Revenue
Secretariat

File No

92

of 1941

[App F III-2]

Serial
No

Letter no A3-C-2657/39-40 dated
2-2-42 from the Deputy Commissioner,
Kadur Dist. forwarding a report
regarding alleged encroachment
on the vacant site belonging
to the Police Dept. by the Kadur
Municipal Council and soliciting
orders of Govt. in respect
of the ownership of the land in question

1 The Deputy Commr Kadur
Dist. has furnished a detailed
report on the case But the records
do not disclose decisive evidence
as to the ownership of the land

2 The Commr for Settlement
and Land Records may be consulted
unofficially kindly to furnish his
opinion on the case

3 The Sub Div Officer finding
hardly helps the disposal of the case
Nor does his conclusion that the Police
Dept. & the Private party should have
it out in a Court of law, seem to
be a desirable suggestion The
private party is scarcely open to
blame as his bona fides are not

NOTE—Cont Sheet

Alleged encroachment by the Mltg — Kadroz Minor

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General and Revenue
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available. The primary mistake is therefore traceable to the Mltg in having add the title without establishing ownership. The onus of proving lies with the Mltg. As held by the D C, the land has to be regarded as the property of Govt. The Rio Branch & the P W Sect may be consulted.

5/3 The records show that the land in question does not bear a survey number and does not consequently find a place in the Survey records of the known village.

Under sec 46 of the Minorities Act 1933, the nature & kind of property that may vest in a Mltg are specified. A century vestible property of the nature of which is such that it is not specially reserved by the Govt shall be vested in & belong to the Mltg and shall be held & applied by it as a trustee. Under cl (b), it is stated that any adjacent land - not being private property appertaining to any public tank or well belongs to the Mltg. A perusal of the records shows that there was an abandoned 'kunda' in the west of the area.

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No

now disposed of by the M.C. as building
sites and that there was a water supply tank
in the area to the east of the said land.
This fact points to the conclusion that it
has been a municipal land all along,
although the M.C. has no documentary
evidence to prove that this land was
transferred to it by the Govt for local
purposes. In this connection kind reference
is invited to the findings of the S. D. O.

Tarapur (Haf J). Having regard to the
fact that the said land is in the
possession of the M.C. for over 20 years
and that it has disposed of the sites
for building purposes ^{with effect from 1923} and that already the
first blocky 12 sites have been built upon
and to the fact that it is located
adjacent to the abandoned road (unfenced)
it is for orders of the Land Mgr
not be considered as belonging to the
Municipal Council.

6 It may however be stated that
the M.C. may be advised to keep
block ^{not} vacant, cancelling
the sale already held and refunding the

Alleged encroachment by the Kadur Minor mls

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amount to the sale purchase in V K Above
Rahman sale - although it is more than
8 1/2 years after the sale was held - and so that
the Police Dept may ^{be} entitled to it for
holding Parade & drill for the Police Contingents
of the mls & demand for the support
action may be taken ^{by Govt} under Sec 16(2) of the
Act to resume the property in question and
make it available for the Police Dept

A

Law Secy for
5/3/42

7 'A' may be approved
Minister,
15/3/42

Hm
2
15/3/42

16/3/42

Hm
2
19/3/42

for

Submitted with a draft letter to
the Dy Commr, Kadur with for approval

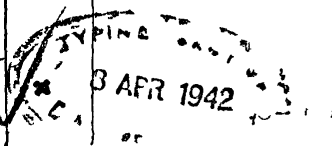
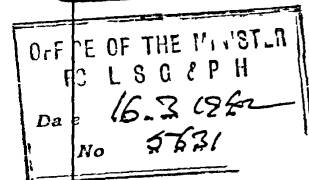
In personal before me
Law Secy for

for
6/4/42
5/6/4/42

Hm
8/4/42

Time

for



General and Revenue
Secretariat

File No 92

4454/2
of 1941

[App F III-2]

Serial
No

10

Mr D. C. Kadur bes:-

No L 9618 d 10-4-42

Issues certain instructions

B
G

L. No.

of 191

General and Revenue
Secretariat

Serial
No

Me 92-41-33

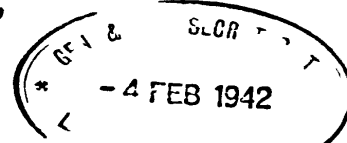
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to A3-C 2657/39-40
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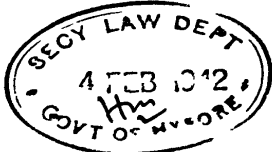
Office of the Deputy Commissioner,
Kadur District,
Chickmagalur, dated, the 2nd February 1942

From

C E Moronha, Esquire, B A,
Deputy Commissioner,
Kadur District



To



H V Narayana Rao, Esquire, B A, LL B,

Secretary to Government,
Law Department,
Bangalore

Sir,

Subject - Regarding alleged encroachment on the vacant
site belonging to the Police Department by the Kadur
Minor Municipal Council

I have the honour to state that one Abdulla Sab of
Kadur Town applied to the Amildar, Kadur Taluk on 10-1-1933 for
the grant of a land measuring 40' x 120' in Revenue Charab to
the east of old abandoned "honda" for the construction of a
house. The Revenue Inspector, Kasaba Hobli, who was asked to
enquire and report on the application, reported on 16-3-1933 that
the site applied for belongs to the Kadur Municipality.
The application was sent to the President of the Municipality
without any further enquiry. The party again gave petitions
to the President, Municipal Council on 28-2-33, 3-3-1933 and
26-8-1933 respectively, praying for the grant of the land.
The Municipal Council resolved that the whole plot be divided
into 8 sites, each of the dimension 40' x 40' and sold in
public auction. Accordingly, a sale notification was issued
on 1-9-1933 by the Municipal President, fixing the sale for
31-10-1933. ^{At the sale held on 31.10.33} the following bids were secured:-

I Block.

1 1st and 2nd sites 175-0-0 Abdulla Sab
2 3rd and 4th sites 185-0-0 Abdulla Sab

II Block -

1st and 2nd sites 25-0-0 V K Abdul Rahman Sab
3rd and 4th sites 230-0-0 V I Abdul Rahman Sab

The sales were confirmed by the Municipal Council at their meeting held on 5-12-1933 and the purchasers were accordingly intimated Abdulla Sab, the purchaser of the 1st block, is reported to have already constructed a house and to be living therein. The second block is reported to be vacant.

2 The District Superintendent of Police, Kadur District represented to this office on 16th January 1942, that the said land belongs to the Police Department and that the sales held by the President may be cancelled and the land given back to the Police Department. The grounds on which he based his claim were as follows -

- a) The land is in the possession of the Police Department ever since the Police Station was built, it being part and parcel of the station and used for parade purposes
- b) Since the whole plot is separated by roads on three sides and by a drain on the western side, it naturally follows that it was given to Police Department for their use
- c) The entries made in the Municipal Registers appear to have been made on the wrong belief that the land belonged to the Municipality, without there being any documentary evidence in support of the same, as is evident from the Mahazar drawn up

3 The Revenue records do not throw any light on the ownership of the land as the Police Station is said to be constructed in the Gavathana. In the assessment register maintained by the Municipality, only the Police Station building is mentioned, but there is no mention of any vacant land attached to it. From the extract of the building register sent by the Executive Engineer, Kadur Division, it is seen that the dimensions of the building are 182' x 67'. The dimensions of the vacant land attached to it are not noted. It is stated therein that the building was constructed between the years 1888 and 1891 and 1893 and 1894. The Secretary to Government Public Works Department was, therefore, requested to send a copy of the Government Order sanctioning the construction of the Police Station buildings to see whether that would throw any light on the question. From a copy of the Government Order No 5885-6/862-70 dated 4-12-1888 received from the

received from the said Secretary, it is seen that Government accorded sanction to an estimate amounting to Rs 1240/- for constructing a 1st Class Police Station at Kadur. No mention of the dimensions of the site on which the building was constructed or of the vacant land in dispute has been made in the said Government Order.

4 The Sub Division Officer, Tarikere, was asked to conduct a formal enquiry and give a finding as to whom the land in question belongs. Accordingly, a formal enquiry was conducted by the Sub Division Officer and the Police Inspector, two of the then Municipal Councillors and one other person outside the Municipal Council, were examined by him. The statement of the Police Inspector made before the Sub Division Officer is practically a repetition of the grounds set forth by the District Superintendent of Police in his letter dated 16th February 1940. The two Municipal Councillors have stated that the entire piece of land, apart from the area now fenced in by the Department and that built upon, belonged and belongs to the Municipality, that the land was made use of as a parade ground simply because it was vacant, that until very recently it would appear there was a water supply tank in the area to the east of the land in question, and nearer the station building, which was removed only recently and which had stood there for a long time, that there was even a 'thope' slightly to the west of the station building and to the east of the land in question which used to be frequented by the public, and that the land has definitely been in the possession of the Municipality for the last forty years and more and claims from the Police Department were never put in before this. Mr. Kumarish, another of the persons examined, has supported the statement that there was a 'Honda' just to the west of the Police Station building which was recently filled up by the Municipality and that there was a 'thope'. The Sub Division Officer is of opinion that while the Municipality can be

can be stated to have a right subsisting over the land for a number of years past, about 40 years or more, and while it cannot rightfully and properly refuse a license to the party having sold the same to the latter, the question of actual ownership of the land is a matter between the Police Department and the private party and is capable of final decision in a competent civil Court, if necessary, unless it is ^{considered} ~~consered~~ that the ownership of the land vests in Government.

5. From a perusal of the records it is seen that the Municipal Council have no documentary evidence to show that the land in question has been alienated to them. I am, therefore, of opinion that the land must be considered as the property of Government. In the absence of any title to their ownership, the Kadur Municipal Council was wrong in having sold the land without making a reference to this office in the matter. I therefore request that orders of Government regarding the ownership of the land may kindly be obtained.

The connected records together with the copies of the extract from the building register and the Government order sanctioning the estimate for the construction of the Police Station building are enclosed for reference.

I have the honour to be
Sir,
Your most obedient servant,



Deputy Commissioner,
Kadur District

H. P. R.



Extract of the building Register maintained in the Kadur Division

Sl No of No of building subsidiary building	Name of building	Source of fund from which purchased or erected	Date of erection	Recorded value	Nature of building. Walls Roof. Floor	Extreme dimensions of level of Extreme- plinth includ- Length Breadth ing verandha
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Kadur 1	Kadur Police Station	New	1888-91 93-94	2588	Brick Mangalore Slabs in mud, tile	67 18 1239
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Remarks - North and east by Kadur Mangalore Road
West by bund and Mango tope
South by Railway Station Road

""COFY""

C. S. S. S.
Deputy Commissioner,
Kadur District
S. S. S.

Government Order No 5885-6/869-70 dated 4th December 1888 from the Secretary to Government of Mysore, P W Department, Bangalore to the Executive Engineer, Kadur Division

H s No 207 of ²⁶28th ultimo, submitting for sanction, an estimate amounting to Rs 1240/- for constructing a 1st Class Police Station at Kadur

Returns the above estimate sanctioned for 1240/-

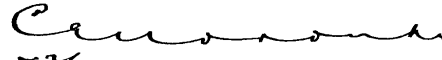
2 The appropriation of Rs 1000/ made for constructing Police lines at Anthragatte (the estimate for which has since been cancelled vide No 5784 of 22/11/1888) has been resumed and the amount appropriated for the work now sanctioned No more money is available from the Police grant, but if Executive Engineer expends the full amount of estimate, the Examiner will be asked to pass the difference in excess

No 5886/870

Copy forwarded to the Inspector General of Police for information, with reference to his No 1868/275 of 17th ultimo

&&%%&??&&

"COPY"


Deputy Commissioner,

Kadur District

H P R



Appendix F G—1]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

()
the 19

Date of issue

Signed by

List of enclosures

Copied by

Examined by

Section

File No

✓ Serial No

No

To

The D C Kadur West-
Sur

I with refer to your letter
no A3-C 2657/39-40 d 2 2-42, Solicitor
orders ^{on} regarding the alleged en-
by the Kadur Minor and of
encroachment on the Vacant Site
at Kadur ~~Minor~~
said to belong to the Police Dept⁷ and
are directed to state as follows -

(1) The records show that the
land in question does not bear a
Survey no and does not consequently
find a place in the Survey Records
of the Kadur Village.
In answer

(11) According to Sec 46 of the

My 30th Minor Municipalities Act, 1953,
all property, of the nature of which is such
as
that is not specially reserved by Govt., shall
be vested in, and belong to, the M.L. C. and
it shall be held and applied by it as a trustee.
Under clause (b) of the said section, any
adjacent land, not being private property
appertaining to any public tank or well belongs
to the M.L. C.

(ii) In this case the records ^{disclose} show that there was
an abandoned "Hunda" to the west of the area now disposed of
by the M.L. C. as building sites and that there was ^{also} a water supply
tank in the area to the east of the said land. These facts point to the
conclusion that ^{the area in question should} it had been a municipal land all along although
the M.L. C. has no documentary evidence to prove that ^{the area} this land
was transferred to it by the Govt. for local purposes
further the facts that the land ^{has been virtually} in the possession of the M.L. C. for
over 40 years, and that it ^{also} has disposed of the sites formed thereon,

for building purposes, so far back as 1933. ¹⁻¹¹ tend to show that
the land ^{Para 2, Govt. are} belongs to M.L. C. In these circumstances, the land ^{is supposed to be} referred to
should be considered as belonging to the local M.L. C.
as ^{have been} no buildings have been constructed on the second

block of sites on the land and it is required by the Police Dept.

G R S App F G 3

GENERAL AND REVENUE
SECRETARIAT

(Continuation sheet draft form)

I am

~~require the area for holding~~
~~parade and draft for the~~
~~house to stake fuel~~
~~Police constables~~ the mil ci
should
may be advised to keep
no II
the block ~~as~~ vacant; Cancelling
the sale already held and
refunding the amount—
to the State purchaser,
Mr V K Abdul Rahman Sab,
so as to enable the police
Contamin to
seps to utilize the land.

Para 3. If the Municipal Council
should demur to this suggestion
action may ^{have to} be taken by
Govt under Sec 46(2) of
the Mysore Towns Manage-
ment Act, 1933, to resume
the property in question
and make it available
for the police seps—
The records accompanying

File
6/4/42

I have etc—
Hm
for Secy to Govt
Law seps—